IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE FIFTEENTH DAY OF JULY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE K.C. BHANU

W.P.Nos.5786, 7398, 7760, 5717, 5491,

14882, 5425 and 5412 of 2003

W.P.No.5786 of 2003

Between:

G.Yadagiri s/o Ilaiah
A.B.V.Degree College., Janagoan., Warangal District.

..... PETITIONER

AND

1 The Govt of A.P., rep by its Secretary, Higher Education.,

Department, Secretariat, Hyderabad.
2 The Director of Collegiate Education., Hyderabad.
3 The Regional Joint Director of Collegiate Education., Warangal.
4 The ABV Degree College., Jangoan., rep by its Correspondent,
Warangal District.

5. Dr.K.Sadashiva Reddy, S/o Kista Reddy, aged 46 years,

Reader in Botany, A.B.V. Degree College, Jangaon,

Warangal District.

6. Dr.L.Venu, S/o Chandraiah, age 44 years,

Reader in Physics, A.B.V.Degree College,

Jangaon, Warangal District.

7. K.Sathaiah S/o Pentaiah, age 51 years,

Head Clerk, A.B.V.Degree College, Jangaon, Warangal District.

(RR5 to 7 are impleaded as per court order in WPMP No.9489 of 2003,
dated 29-04-2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, order or direction in the nature of Writ of Mandamus, to declare that the action of the respondents in taking over the Management of the A.B.V.Degree College, Jangoan, from 1-4-2003 by G.O.Ms.No.10 HE, dated 12-3-2003 without absorbing the petitioner on the untenable ground that he is working in un-aided post inspite of extracting work for nearly 15 years and seeking to terminate his services under condition 5 of para 4 of the G.O.is as illegal, arbitrary, discriminatory, unjust and violative of Articles 14,16 and 21 of Constitution of India and consequently hold the petitioner is entitled to be absorbed/regularise as Lecturer in History interms of G.O.Ms.No.328 dated 15-10-1997 with all consequential benefits and pass such other order or orders as the Hon'ble court may deem fit and proper.

Counsel for the Petitioner: MR.M.RAMGOPAL RAO

Counsel for the respondent Nos.1 to 3: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.4: none appeared

Counsel for the Respondent No.5 to 7: MR.J.R.MANOHAR RAO

WRIT PETITION NO : 7398 of 2003

Between:

P. Bal Reddy, S/o Raghava Reddy, aged 34 years,

Lecturer in Sociology (On contract basis),

A.B.V. Degree College, Jangaon, Warangal District.

..... PETITIONER

AND

1. Government of Andhra Pradesh, rep. By its

Secretary, Higher Education (CE.II.s) Department,

Secretariat, Hyderabad.

2. The Director of Collegiate Education, Andhra Pradesh, Hyderabad.

3. Andhra Bhasha Abhivruddini Degree College Society,

rep. By its Secretary & Correspondent, Jangaon,

Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an appropriate writ, order or direction, preferably one in the nature of writ of Mandamus, declaring G.O.Ms.No.10, Higher Education (CE.II.2) Department, dated 12-3-2003 as illegal, arbitrary and violative of Article 14 of the Constitution of India, and consequently direct the respondents to consider the taking over the Lecturers occupying unaided posts including the petitioner herein, in view of the decision to take over the entire college under the 3rd respondent society together with its assets along with aided staff.

Counsel for the Petitioner:MR.J.KANAKAIAH

Counsel for the respondent Nos.1 and 2: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.3: none appeared

WRIT PETITION NO : 7760 of 2003

Between:

Raju Bolla, S/o Chandraiah, aged 27 years,

Lecturer in Botony (on contract basis),

A.B.V Degree College, Jangaon, Warangal District.

..... PETITIONER

AND

1. Government of Andhra Pradesh, rep. By its

Secretary, Higher Education (CE.II.s) Department,

Secretariat, Hyderabad.

2. The Director of Collegiate Education, Andhra Pradesh, Hyderabad.

3. Andhra Bhasha Abhivruddini Degree College Society,

rep. By its Secretary & Correspondent, Jangaon,

Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, preferably one in the nature of writ of Mandamus, declaring G.O.Ms.No.10, Higher Education (CE.II.2) Department, dated 12-3-2003 as illegal, arbitrary and violative of Article 14 of the Constitution of India, and consequently direct the respondents to consider the taking over the Lecturers occupying unaided posts including the petitioner herein, in view of the decision to

take over the entire college under the 3rd respondent society together with its assets along with aided staff.

Counsel for the Petitioner: MR.J.KANAKAIAH

Counsel for the respondent Nos.1&2: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.3: none appeared

WRIT PETITION NO : 5717 of 2003

Between:

1. T.Sridhar, S/o Rajaiah, aged 29 years

R/o H.No.6-2-2/8/E, S.V.Jr.College Street, Jangaon, Warangal.

2. B.Srinivasa Rao S./o Kondal Rao, aged 32 years

3. M.Srinivas S/o Bikshapathy, aged 27 years

4. M.Andalu S/o Vaikuntam, aged 33 years

5. K.Vijaya Kumar S/o Pullaiah, aged 28 years

6. Y.Kistiah S./o Roshaiah, aged 34 years

7. V.llaiah S/o Somaiah, aged 27 years

8. J.Veerender S/o Somaiah, aged 27 years

9. J.Komuraiah S/o Narayana, aged 37 years

10. G.Yadagiri S/o Kistaiah, aged 33 years

(Petitioners 2 to 10 are R/o C/o R/o.H.Nmo.6-2-2/8/E,

S.V.Jr. College Street, Jangaon Warangal)

..... PETITIONER

AND

1. Government of A.P

rep. By its Secretary,

Higher Education Department,

Secretariat, Hyderabad.

2. A.B.V. Degree College Society, Jangaon, Warangal

rep by its Chairman.

3. A.B.V. Degree College Society, Jangaon, Warangal

rep by its Principal.

4. Dr.K.Sadhashiva Reddy S/o Kista Reddy,

age:46 years, Reader in Botany, A.B.V. Degree College,

Jangaon, Warangal District.

5. Dr.L.Venu, S/o Chandraiah, Age:44 years,

Reader in Physics, A.B.V. Degree College

Jangaon, Warangal District.

6. K. Sataiah, S/o Pentaiah, age:51 years,

Head Clerk, A.B.V. Degree College,

Jangaon, Warangal District.

(RR4 to 6 are impleader as per Court order in W.P.M.P.No.9190 of 2003, dated 29-05-2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue an order direction or writ particularly one in the nature of writ of Mandamus or any other appropriate writ declaring the condition No.5 in G.O.Ms.No.10 Higher Education (CE.II.2) Department dated 12-3-2003 is illegal arbitrary and discriminatory and consequently set aside the said condition NO.5, with further direction to take over the non-teaching staff working in the unaided posts of the third respondent college with consequential benefits.

Counsel for the Petitioner: MR.G.VIDYASAGAR

Counsel for the respondent No.1: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.2 and 3: None appeared

Counsel for the Respondent Nos.4 to 6:MR.J.R.MANOHAR RAO

WRIT PETITION NO : 5491 of 2003

Between:

1 N.Srinivasa Rao S/o Somalingam
ABV Degree College, Jangon,
Warangal Dist.
2 D.V.Rajaiah S/o Chandraiah
ABV Degree College, Jangon,
Warangal Dist.

3 H.K.Madhusudhan Rao S/o HK Bhima Rao
ABV Degree College, Jangon, Warangal Dist.
4 T.Bhaskar S/o Sri Sammaiah
ABV Degree College, Jangon, Warangal Dist.

..... PETITIONERS

AND

1 State of AP., Rep by its Prl Secretary, Govt of AP.,
Educ Deprt., (HE), Secretariat, Hyd.
2 Commissioner of Collegiate Educ., Govt of AP., Nampally, Hyd.
3 Regional Joint Director of High Education, Warangal.
4 Special Officer, ABV Degree College, Jagon, Warangal.
5 ABV Degree College, Rep by its Secretary & Correspondent,
Jagon, Warangal.
6 Dr.K.Sadashiva reddy S/o Kista Reddy
ABV Degree College, Jagon, Warangal Dist.
7 Dr.L.Venu S/o Chandraiah
ABV Degree College, Jagon, Warangal Dist.
8 K.Sathaiah S/o Pentaiah
ABV Degree College, Jagon, Warangal Dist.

(RR6 to 8 are impleaded as per Court order in W.P.M.P.No.9400 of 2003, dated 29-04-2003)

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction especially one in the nature of mandamus i) declare that the petitioner are entitled for absorption into aided vacancies in R5 college or in any needy college ii) declare that the rights of the petitioners cannot be effected in as much as they are regularly selected & appointed & working for over 6yrs, iii) direct the respondents to absorb the petitioners as lecturers in aided consequential benefits.

Counsel for the Petitioner: MR.V.JOGAIAH SARMA

Counsel for the Respondent Nos.1 to 3: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.4&5: none appeard

Counsel for the Respondent No.6 to 8: MR.J.R.MANOHAR RAO

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WRIT PETITION NO : 14882 of 2003

Between:

1 A. Suryam s/o Yellaiah
part-time Lecturer in Industrial Micro Biology A.B.V. Degree College,
Jangoan, Warangal District
2 B. Kiran Kumar s/o Madhusudhan rao

part-time Lecturer in comp., Sciences, A.B.V. Degree College, Jangoan, Warangal District

3 T. Sridhar s/o Somanarasaiah
part-time Lecturer in comp., Sciences, A.B.V. Degree College, Jangoan, Warangal District

4 G. Vidya Sagar s/o Vishwanatham
part-time Lecturer in comp., Sciences, A.B.V. Degree College, Jangoan, Warangal District

5 S. Sebastian s/o Amruthaiah

6 K. raghava Ranga Rao s/o Venkatramarao

7 R. Srikanth s/o Somalingam
part-time Lecturer in comp., Sciences, A.B.V. Degree College, Jangoan, Warangal District

..... PETITIONERS

AND

1 The Government of Andhra Pradesh, rep by Principal Secretary, Higher Education Dept., Secretariat, Hyderabad

2 The Director of Collegiate Education, Andhra Pradesh, Hyderabad

3 The Regional Joint Director of Collegiat Education, Warangal, Warangal District

4 The A.B.V. Degree College, jangoan, rep by its Correspondent, Warangal District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ order or direction more particularly one in the nature of Writ of Mandamus declaring the action of the respondent
in taking over Management of A.B.V. Degree College Jangoan from
1-4-2003 by G.O.Ms. No. 10 Higher Edn., dt 12-3-2003 without absorbing the petitioners on the ground that they are working in unaided post in spite of extracting work for several years and seeking to terminate their services under Condition-5 of para-4 of the G.O.Ms. as illegal arbitrary discriminatory, unjust and violative of articles 14, 16 and 21 of the Constitution of India and consequently hold that the petitioners are entitled to be continued in terms of G.O.Rt. No. 525 dt 2-7-2003 as Lecturer in Industrial Micro Biology. Computer Science and Physics with all consequential benefits.

Counsel for the Petitioner: MR.M.RAMGOPAL RAO

Counsel for the respondent Nos.1 to 3: GP FOR HIGHER EDUCATION

Counsel for the Respondent No.4: none appeared

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WRIT PETITION NO : 5425 of 2003

Between:

1 N.Venu Gopal S/o N.Srihari
Shankaranagar, Bodhan, Nizamabad District.
2 T.Srinivasa Rao S/o Vishwanath
Shankaranagar, Bodhan, Nizamabad District.

..... PETITIONERS

AND

1 State of Andhra Pradesh Rep. by its Principal Secretary,
Higher Education Department, Secretariat, Saifabad,
Hyderabad.
2 The Director of Collegiate Education, Andhra Pradesh,
Hyderabad.
3 The Madhu Malancha Educational Society Rep. by its Secretary &
Correspondent, Shakarnagar, Bodhan, Nizamabad District.
4 Dr.M.Vani Manohar , M.Com., Ph.D., S/o Sri.Vankat Ram Narasaiah
R/o Qr.No.3-14, Shankarnagar, Nizamabad District.
5 Sri.Y.Raghavaiah , M.Com., M.Phil., S/o Sri Y.Adinarayana
R/o 1-1-1355, Raksipet, Bodhan, Shankarnagar,
Nizamabad District.
6 Dr.M.Venkateswarlu, M.Com., M.Phil, S/o Sri. Muthaiah Sharma
R/o 1-2-504, Rakasipet, Bodhan, Shankarnagar, Nizamabad District.
7 Sri.V.Bheem Reddy, M.Com., M.Phil, S/o Sri.V.Gopal Reddy
R/o 1-1-1117/A, Rakasipet, Bodhan, Shankarnagar,
Nizamabad District.
8 Dr.T.N.V.Subramanyam, M.A., Ph.D., S/o Sri. T.S.Natrajan
R/o 1-1-1352, Rakasipet, Bodhan, Shankarnagar,
Nizamabad District.
9 Sri.M.Krishanaiah, M.Com., M.Phil, S/o Sri.M.Anthaiah
R/o 1-1-1352, Rakasipet, Bodhan, Shankarnagar,
Nizamabad District.
10 Sri.D.Srihari Ramam, M.A. S/o Sri.D.Subba Rao
R/o 2-62,Bypass Road, Achanpally, Shankarnagar Post-503 108.
11 Sri M.Nagaraju, M.A.M.Ed, S/o Sri Satyanarayana
R/o 1-103, Saichandra Apartments, O.U.Road,
Hyderabad.
12 Sri A.Shyamasunra Sarma, B.Sc., B.P.Ed., NIS., S/o Sri A.Venkateswarlu
R/o 4-2-95, Pavan Complex, Anil Talkies Rd, Bodhan,
Nizamabad District-503 185.
13 Smt.Sayeeswari, M.Sc., M.Phil., S/o Sri.A.V.Narayana Rao
R/o 1-1-1302, Raksipet, Bodhan,
Nizamabad District-503 185.
14 Dr.B.Gangadhar, M.A., M.Phil., Ph.D., S/o Sri.B.Bhumanna
R/o 1-2-720, Near Water Tank, Rakasipet, Bodhan,
Nizamabad District.
15 Sri.Y.Srinivasu, M.Com., M.Phil, S/o Sri Y.Subba Rao,
R/o 1-4-7601, Gunj Raod, Rakasipet, Bodhan,
Nizamabad District.
16 Sri.V.Emmanuel, M.A, s/o Sri.V.Deva Sahyam

R/o 1-1-1184, Rakasipet, Bodhan,
Nizamabad District.

17 Sri Abdul Majeed, M.Com., M.Phil., S/o Sri Abdul Waheb
R/o 1-1-287/1, Rakasipet, Bodhan,
Nizamabad District.

18 Sri.B.Mallesham, B.Com., S/o Sri. Narayana
H.No.1-3-4, Srinivas Nagar Camp, Bodhan,
Nizamabad District.

19 Sri.K.V.Subba Rao, B.A., S/o Sri K.Venkata Ratnam
H.No.1-3-4, Srinivas Nagar Camp, Bodhan,
Nizamabad District.

20 Sri.A.Venugopal, B.Com., S/o Sri. A.Nageswara Rao
R/o Qr.No.C/New-42, Shankarnmagar,
Nizamabad District-503 108.

21 Sri.S.Satyanarayana, Inter S/o Sri. S.Mahadev
R/o MIG-57, Housing Board Colony, Shankarnmagar.

22 Sri.R.Vittal, B.A., S/o Sri R.Ramulu
R/o A.R.P.Camp., Yedapally Mandal-503 235.

23 Sri.P.Laxmaiah, S.S.C., S/o Sri Narasaih
R/o BR/244 Near Tree Temple, Shakarnagar- 503 180.

24 Sri. B.Bhoodaiah S/o Sri Yellaiah
R/o 1-18/2, Achanpally,
Shankarnagar.

25 Sri Shaik Aleem S/o Sri Fakir Mahammed
R/o 1-1-433/A1 Raksipet, Bodhan,
Nizamabad District.

26 Sri .P.Bhoomaiah S/o Sri. Sayanna
aged 51 years, Occ: Gardener,

R/o.2-6-77, Ekachakranagar,

Bodhan, Nizamabad District..

27 Sri P.Ramchandar S/o Sri P.Gangadaram
aged 50 years, Occ: Sweeper,

R/o.1-2-557, Rakasipet, Bodhan,

Nizamabad District.

28 Sri.M.Nagaiah S/o Sri Sattaiah
R/o 4-7-441, Dhobigally, Shankarnagar,
Nizamabad District.

29 Sri.Syed Omer S/o Sri Syed Hder,
R/o 4-1--428, Aneesa Nagar, Shankarnagar,
Nizamabad District.

30 Sri.B.Narasaiah S/o Sri.Balaiah
R/o 1-2-449, Rakasipet, Bodhan,
Nizamabad District.

31 Smt.Kamalabai W/o Ramesh
R/o Janakamma Nivas, L.B.S.Nagar, Bodhan,
Nizamabad District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to

issue a Writ order or direction, more particularly one in the nature of Writ of Mandamus:- A) Declaring the action of the respondents in issuing G.O.Ms.No.9 Higher Education (CE.II.2) Department dt: 12.3.2003 as bad in law and violative of article 14 of the Constitution of India, B) Direct the respondents to consider taking over of the Lecturer occupying aided posts in view of a decision to take over the entire college under the 3rd respondent Society together with its assets along with the aided staff.

Counsel for the Petitioner:MR.SIVA

Counsel for the Respondent No.1 &2: GP FOR HIGHER EDUCATION

Counsel for the Respondent Nos.3: MR N.VASUDEVA REDDY

Counsel for the Respondent Nos.4 to 31: MR V.TULASI REDDY

WRIT PETITION NO : 5412 of 2003

Between:

1 Dr.Sabhia Anis W/o Mohammed Ahmed Hussain
Shakarnagar, Bodhan,
Nizamabad District.
2 T.Madhusudan S/o Lingam
Shakarnagar, Bodhan,
Nizamabad District.
3 Govind Raj S/o Bansidhar Rao Kulkarni
Shakarnagar, Bodhan,
Nizamabad District.
4 P.Venkat Rao S/o Vittalrao
Shakarnagar, Bodhan,
Nizamabad District.
5 J.Purushottam S/o Gangaram
Shakarnagar, Bodhan,
Nizamabad District.
6 S.Digamber Rao S/o Sangram Patel
Shakarnagar, Bodhan,
Nizamabad District.
7 V.Rajashekar S/o Chinneshwar
Shakarnagar, Bodhan,
Nizamabad District.
8 G.Pavan Kumar S/o Ramakrishnan
Shakarnagar, Bodhan,
Nizamabad District.

..... PETITIONERS

AND

1 State of Andhra Pradesh Rep. by its Principal Secretary,
Higher Education Department, Secretariat, Saifabad, Hyderabad.
2 The District of Collegiate Education, Andhra Pradesh, Hyderabad.
3 The Madhu Malacha Educational Society Rep. by its Secretary &

Correspondent, Shankaranagar, Bodhan, Nizamabad District.

4 M.Vani Manohar, M.Com., Ph.D, S/o Sri venkat Ram Narasaiah
R/o Qr.No.3-14, Shankarnagar, Nizamabad District-503 180.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

5 Y.Ragahvaiah, M..Com, M.Phili S/o Sri Y.Adinarayana
R/o 1-1-1355, Rakasipet, Bodhan, Nizamabad District-503 185.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

6 Dr.M.Venkateswarlu, M..Com, Ph.D, S/o Sri Muthaiah Sharma
R/o 1-2-504, Rakasipet, Bodhan, Nizamabad District-503 185.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

7 Sri.V.Bheem Reddy, M..Com, M.Phili S/o Sri V.Gopal Reddy
R/o 1-1-1117/A , Rakasipet, Bodhan, Nizamabad District-503 185.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

8 Dr.T.N.V.Subramanyam, M..Com, Ph.D, S/o T.S.Natarajan
R/o 1-4-235, Near Bus Stand, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

9 Sri.M.Krishanaiah, M..Com, M.Phili S/o Sri M.Anathaiah
R/o 1-1-1352, Rakasipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

10 Sri.D.Srihari Ramam, M.A S/o Sri D.Subba Rao
R/o 2-62, By Pass Road, Achanpally, Shankaranagar Post-503 180.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

11 Sri M.Nagaraju, M.A: M.Ed., S/o Sri satyanarayana
R/o 1-103, Saichandra Apartments, O.U.Road, Hyderabad.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

12 Sri.A.Shyamasundara Sarma, B.Sc., B.P.Ed., NIS.,

S/o Sri A.Venkateshwarlu
R/o 4-2-95, Pavan Complex, Anil Talkies Rd, Bodhan,

Nizamabad District-503 185.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

13 Smt.A. Sayeeswari, M.Sc. M.Phil, D/o Sri A.V.Narayana Rao
R/o 1-1-1302,Rakasipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

14 Dr.B.Gangadhara,M.A: M.Phil,Ph.D., S/o Sri B.Bhumanna
R/o 1-2-720 , Near Water Tank, Rakasipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

15 Sri.Y.Srinivasu , M.Com, M.Phil, Sri.Y.Subba Rao
R/o 1-4-760, Gunj Road, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

16 Sri.V.Emmanuel S/oSri V.Deva Sahayam
R/o 1-1-1184, Rakasipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

17 Sri Abdul Majeed , M.Com, M.Phil, S/o Sri Abdul Wahab
R/o 1-1-287/1, Rakasipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

18 Sri. B.Mallesham , B.Com., S/o Sri B.Narayana
R/o H.No.1-2-637, Rakasipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

19 Sri K.V.Subba Rao, B.A., S/o Sri K.Venkata Ratnam
R/o 1-3-4, Srinivas Nagar Camp, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

20 Sri. A.Venugopal, B.Com., S/o Sri A.Nageswara Rao

R/o Qr.no.C/New-42, Shankarnagar, Nizamabad District-503 108.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

21 Sri.S.Satyanarayana, Inter, S/o Sri S.Mahadev
R/o MIG-57, Housing Board Colony, Shankarnagar-503 108.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

22 Sri.R.Vittal, B.A., S/o Sri R.Ramulu
R/o a.P.P.Camp, Yedpally Mandal-503 235
impladed as per court order in WPMP7963/03 dt: 29.4.03.

23 Sri.P.Laxmaiah, S.S.C., S/o Sri Narasaiah
R/o BR/224 Near Tree Remple, Shankarnagar-503 108.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

24 Sri.B.Bhoodaiah S/o Sri Yellaiah
R/o 1-18/2, Achampally, Shankarnagar.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

25 Sri Shaik Aleem S/o Sri Fakir Mahameed
R/o 1-1-433/A1, Raksipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

26 Sri P.Bhoomaiah S/o Sri Sayanna
R/o 2-6-77, Ekachakrnagar, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

27 Sri P.Ramachandra S/o Sri P.Gangaram,
R/o 1-2-557, Rakasipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

28 Sri.M.Nagaiah S/o Sri P.Gangaram
R/o 4-7-441, Dhobigally, Shakarnagar, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

29 Sri. Syed Omer S/o Sri Sattaiah
R/o 4-1-428 , Aneesa Nagar, Shakarnagar, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

30 Sri.B.Narasaiah S/o Sri. Balaiah
R/o 4-1-449 , Raksipet, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

31 Smt.Kalalanai W/o Ramesh
R/o Janakamma Nivas, L.B.S.Nagar, Bodhan, Nizamabad District.
impladed as per court order in WPMP7963/03 dt: 29.4.03.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ, Order or direction, more particularly one in the nature of Writ of Mandamus:- (a) Declaring the action of the respondents in issuing G.O.Ms.No.9 Higher Education (CE.II.2) Department dt: 12.3.2003 as bad in law, and violative of Article 14 of the Constitution of India, (b) Direct the respondents to consider taking over of the Lecturers occupying un-aided posts in view of a decision to take over the entire College under the 3rd respondent Society together with its assets along with the aided staff.

Counsel for the Petitioners: MR.SIVA

Counsel for the Respondent No.1 &2: GP FOR HIGHER EDUCATION

Counsel for the Respondent Nos.3: MR N.VASUDEVA REDDY

Counsel for the Respondent Nos.4 to 31: MR V.TULASI REDDY

The Court made the following:

THE HON'BLE SRI JUSTICE K.C. BHANU

W.P.Nos.5786, 14882, 5491, 5717, 7760,

7398, 5425 AND 5412 OF 2003

COMMON ORDER:

Since the issue involved in these writ petitions is similar, they are being disposed of by this common order.

All these writ petitions are filed challenging

condition No.5 in para-4 of the conditions to the effect that no member in the teaching and non-teaching in unaided posts shall be taken over, as mentioned in G.O.Ms.No.9 Higher Education (CE.II.2) Department dated 12-03-2003 and G.O.Ms.No.10, Higher Education (CE.II.2) Department, dated 12-03-2003, issued by the Government while taking over the management of two colleges namely 1) A.B.V. Degree Colleges and 2) Madhu Malancha Educational Society, as illegal and arbitrary.

The brief facts that are necessary for disposal of the present writ petitions may

be stated as follows:

The petitioners in W.P.No.5786, 14882, 5491, 5717, 7760 and 7398 of 2003 are working as part time/contract lecturers in different science subjects in unaided posts in A.B.V. Degree College, whereas the petitioners in W.P.Nos.5425 and 5412 of 2003 are working in Madhu Malancha Educational Society.

The petitioner in W.P.No.5786 of 2003 was appointed as part time lecturer in History with effect from 28-11-1987 vide proceedings No.A/ABV BC/Estt./87, dated 28-11-1987 of the principal, A.B.V. Degree College, Janagoan and he has been continuing as such and completed 16 years of service. The petitioners in W.P.No.14882 of 2003 were appointed as part time lecturers in different science subjects with effect from 16-06-2000, 16-06-2000, 16-06-2000, 16-06-2000, 18-06-2002, 18-06-2002 and 18-06-2002 respectively in A.B.V. Degree College.

The petitioners in W.P.No.5491 of 2003 were appointed as lecturers in different science subjects in A.B.V. Degree College by a duly constituted selection committee on consolidated pay basis, vide proceedings dated 14-06-1996 in unaided posts.

The petitioners in W.P.No.5717 of 2003 were appointed as non-teaching staff in the cadre of Clerks and Assistants etc in A.B.V. Degree College in unaided posts.

The petitioners in W.P.Nos.7760 and 7398 of 2003 were appointed as Lecturers in Botany and Sociology on contract basis in the unaided posts from in September, 2002 by a duly constituted selection committee in A.B.V. Degree College.

In pursuance of the representation made by the College to the Government on 26-07-2001 for taking over the its management by the Government, the Government issued orders in G.O.Ms.No.10, Higher Education (CE.II.2) Department, dated 12-03-2003 under Sub-section (1) of Section 60 of the A.P. Education Act,

1982 (for short 'the Act'), subject to the conditions satisfied therein. One of the conditions laid down in the G.O. is that no member in teaching and non-teaching in unaided posts shall be taken over. Challenging the same, the present writ petitions are filed.

The petitioners in W.P.No.5425 and 5412 of 2003 were appointed as part time lecturers in different science subjects, by a duly constituted selection committee in Madhu malancha Educational Society and the selections were made in accordance with G.O.Ms.No.12, dated 20-01-1992. Basing on the request of the lecturers coupled with the resolution of

the Educational Society to take over the management of the college, the Government issued G.O.Ms.No.9, Higher Education (CE.II.2) Department, dated 12-03-2003 taking over the management of the college, under Sub-Section (1) of Section 60 of the Act, stipulating certain conditions therein. Challenging the same, the present writ petitions are filed.

Detailed counter affidavits have been filed by the respondents admitting that in pursuance of the representations of the A.B.V. Degree College, dated 26-07-2001 and Madhu Manchala Educational Society to the Government requesting to take over the colleges, the Government issued G.O.Ms.No.10 Education dated 12-03-2003 and G.O.Ms.No.9, Higher Education (CE.II.2) Department, dated 12-03-2003 respectively taking over the colleges, under Sub-Section (1) of Section 60 of the Act, stipulating certain conditions therein. The petitioners, who are working on temporary/contract basis, cannot be admitted to grant-in-aid unless and until the unaided courses are admitted to grant-in-aid even though they were selected through selection committee constituted as per G.O.Ms.No.119, dated 22-03-1991 and appointed duly following the procedure laid down in G.O.Ms.No.12, dated 10-01-1992. Since all the petitioners are appointed on temporary/contract basis, they cannot question the said Government Orders and there are no grounds to interfere

with the same.

Mr. M. Ramgopal Rao, learned counsel appearing for the petitioner in W.P.No.5786 of 2003 contended that the petitioner has completed 16 years of service as he was appointed as part time lecturer in History with effect from
28-11-1987 and that as per G.O.Ms.No.328 Education (CE.II.1) Department, dated 15-10-1997 his services have to be regularized.

He also contended that the petitioners in W.P.No.14882 of 2003 were appointed as part time lecturers on consolidated pay in the year 2000-2002 as per the Government orders and therefore they are also entitled for regularization.

Mr. V. Jogayya Sarma, learned counsel appearing for the petitioners in W.P.No.5491 of 2003 contended that all the petitioners, in pursuance of a notification, applied for the teaching posts in the respondents-college and a duly constituted selection committee appointed the petitioners in the posts, for which they were selected, on consolidated pay and therefore their services have to be regularized.

Mr. Siva, learned counsel appearing for the petitioners in W.P.No.5425 of 2003 contended that the petitioners were appointed as lecturers by a duly constituted selection committee in the year 2001 in accordance with G.O.Ms.No.12 dated 20-01-1992 and the management considered the case of the petitioners for regularization in the degree colleges but it was not certified as some of the junior lecturers have raised objections and there cannot be any discrimination between persons holding aided and unaided posts and that there will not be any financial commitment to the Government if the unaided posts are taken over, because 300 students in the science faculty could be generating revenue in the form of fees and hence he prays to allow the writ petition.

He also contended that the petitioners in W.P.No.5412 of 2003 were appointed as

lecturers by a duly constituted selection committee in the year 2001 in accordance with G.O.Ms.No.12 dated 20-01-1992 and the management considered the case of the petitioners for regularization in the degree colleges but it was not certified as some of the junior lecturers have raised objections and there cannot be any discrimination between persons holding aided and unaided posts and that there will not be any financial commitment to the Government if the unaided posts are taken over, because 300 students in the science faculty could be generating revenue in the form of fees and hence he prays to allow the writ petition.

Mr. G. Vidyasagar, learned counsel appearing for the petitioners in W.P.No.5717 of 2003 contended that the petitioners are working as non-teaching staff in the cadre of clerks, assistants etc. because of the condition they are not being taken over and therefore it is illegal. He also contended that when the Government has taken over the private management of the school, the staff working in the institution became the employees of the Government and therefore he prays to allow the writ petition.

Mr. Jalli Kanakaiah, learned counsel appearing for the petitioners in W.P.Nos.7760 and 7398 of 2003 contended that the petitioners were selected by a duly constituted selection committee in the management of the school and therefore, they are entitled for regularization.

On the other hand, the learned Government pleader for Higher Education appearing for the respondents contended that all the petitioners were appointed purely on temporary basis and since the policy decision of the Government is to privatize all the units of Nizam Sugars, the college being run by the Nizam Sugars, on the request of the management, was taken over by the impugned proceedings. He further contended that the Government or the university is no way involved in the selection process and therefore the posts under which the petitioners are working were not admitted into grant-in-aid and therefore under Section 60 of the Act, the Government has taken over the management of the colleges within certain

conditions and there is no discrimination as such in imposing such conditions and hence there are no grounds to interfere with the impugned proceedings.

Majority of the petitioners are working as part time lecturers in science group of the A.B.V. Degree College, Jangaon, Warangal District. Whereas the other petitioners are working in the unaided posts of Madhu Malancha Educational Society. The management of the colleges represented to the Government for taking over the possession of the colleges. Thereafter, Government of Andhra Pradesh issued G.O.Ms.No.10, dated 12-03-2003 in respect of taking over of A.B.V. College, Janagam, Warangal District and also issued G.O.Ms.No.9 Higher Education (CE.II.2) Department dated
12-03-2003.

In all these writ petitions, the common question involved is as to the condition imposed in the aforesaid G.O.s with regard to condition No.5 that no member in teaching and
non-teaching in unaided posts shall be taken over.

The Government after considering the matter, accepted to take over both the colleges and directed that both the colleges be taken over and transferred to the Government under Sub-Section (1) of Section 60 of the A.P. Education Act, 1982 (for short 'the Act') subject to the following conditions:

1. All assets of movable and immovable should be handed over to the Government without payment of any compensation.

2. Surplus staff (teaching and non teaching) shall be transferred to needy Government Degree Colleges, in the same zone.

3. All the teaching and non-teaching staff working in Madhu Malancha Degree College have to take last ranks after taken over and there will be no right to them to claim seniority in future.

4. There shall be no additional financial commitment to Government either now or in future.

5. No member in teaching and non-teaching in unaided posts shall be taken over.

6. The liabilities, if any, also be settled by the society, before the taken over of the college.

The learned counsel appearing for the petitioners contended that the condition that no member in teaching and non-teaching in unaided posts shall be taken over would be an "unduly onerous" condition, because those posts were not admitted into grant-in-aid; that one of the condition to take over the colleges is that there will not be any additional financial commitment to the Government, since the salaries to the aided posts are released by the Government. According to the counsel for the petitioners, the said act of the respondents is discriminatory.

According to the learned counsel appearing for the petitioners, all the assets include aided and unaided posts and that there is no discrimination for aided and unaided posts as per Section 60 of the Act. The Government can take over the management of private institutions in its entirety, but not by way of segregation of posts and therefore the classification made by the Government is illegal and not justified.

The principle of equality does not take away from the State, the power of classifying persons for legislative purposes. Differential treatment does not *per se* constitute violation of Article 14 of the Constitution, but when it derives equal protection only and when there is no reasonable basis for differentiation. In order to pass the test of permissible classification, two conditions must be fulfilled, namely, i) that the classification must be founded on an intelligible

differential which distinguishes persons or things that are grouped together from others left out of the group and ii) that, that differential must have a rational relation to the object sought to be achieved by the statute in question.

The above two conditions, in order to pass the test of permissible qualification, have been reinstated by the Supreme Court in a recent decision reported in **WELFARE ASSN. v. RANJIT P.GOHIL** , wherein it was held:

> "Article 14 of the Constitution permits reasonable classification for the purpose of legislation and prohibits class legislation. A legislation intended to apply or benefit a "*well-defined class"* is not open to challenge by reference to Article 14 of the Constitution on the ground that the same does not extend a similar benefit or protection to other persons. Permissible classification must satisfy the twin tests, namely, (i) the classification must be founded on an intelligible differentia, which distinguishes persons or things grouped together from others left out of the class, and (ii) such differentia must have a rational relation with the object sought to be achieved by the legislation. It is difficult to expect the legislature carving out a classification which may be scientifically perfect or logically complete or which may satisfy the expectations of all concerned, still the court would respect the classification dictated by the wisdom of the legislature and shall interfere only on being convinced that the classification would result in pronounced inequality or palpable arbitrariness on the touchstone of Article 14."

Therefore, from the above decision it is clear that some posts are required to be classified as reasonable than the challenge based on Article 14 of the Constitution as to the arbitrariness in the impugned classification. Bearing the above principles in mind, it is to be seen whether the impugned classification is arbitrary, unreasonable and violative of Article 14 of the Constitution.

When an action of the Government is challenged as denying the equal protection, the question for determination by the Court is not whether it has resulted in inequality, but whether there is some difference, which bears a just and reasonable relation to the object of the action of the Government. Mere differentiation or inequality of treatment or inequality of burden does not *per se* amount to

discrimination within the inhibition of the equal protection clause. To attract the operation of the clause, it is necessary to show that the selection or differentiation is unreasonable or arbitrary; that it does not rest on any rational basis having regard to the object, which the Government has in view.

The two different classes of persons who are working in the colleges are those working in the aided and unaided posts. Almost all the petitioners are working either on temporary or on contract basis in respect of science subjects.

It is not in dispute that though the petitioners were appointed as part time/contract basis lecturers, which posts are purely temporary, but at the same time they were selected and appointed by a duly constituted selection committee. The taking over of the college by the Government is complete and full, because all the assets, viz. movable and immovable properties should be handed over to the institution. By the time of taking over the college, the Government had full information about the assets and liabilities of the colleges including the staff working in aided and unaided posts. The Regional Joint Director of Collegiate Education also conducted a detailed inspection.

The private managements of the colleges have been taken over under Sub-Section (1) of Section 60 of the Act, which reads as follows:

> "Where the Government are of opinion that the management of any educational institution should either in the public interest or in order to secure the proper management of the said educational institution be taken over, they may, after giving one month's notice to the management of such educational institution to make any representation, direct by notification, that the management of the said educational institution, shall with effect on and from the date specified therein vest in the Government until the said educational institution is acquired:
>
> Provided that no private institution under the management of a religious institution, endowment or a wakf shall be taken over without the prior consent of such management."

Sub-Section (2) of the Act reads as follows:

> "The educational institution referred to in sub-section (1) shall be deemed to include all assets, rights and leaseholds, powers, authorities and privileges and all property, movable and immovable including lands, buildings, stores, instruments and vehicles, cash balances, reserve fund, investments and book debts and all other rights and interest arising out of such property as were, immediately before the date of taking over of the management under Sub-section (1) (Hereinafter in this Chapter referred to as the date aforesaid) in the ownership, possession, power or control of the management of such educational institution and all books of account, registers and all other documents of whatever nature relating thereto."

A perusal of the above provision makes it clear that there is no distinction between taking over the college in respect of certain posts and not taking over in respect of certain posts. No doubt, the Government, in the impugned proceedings, curved out a distinction insofar as financial commitment is concerned. There cannot be any dispute that the salaries to the aided posts in the private colleges are being released by the Government and in such cases, there will not be any additional commitment to the Government in taking over the college. Perhaps, keeping in view the financial commitment to the Government, the Government put the condition that no member in teaching and non-teaching in unaided posts shall be taken over. Section 60 of the Act does not differentiate between aided and unaided posts and it only speaks of taking over the college. Because of such classification, it will cause hardship to 300 students studying in the science faculty.

It is one of the contentions raised by the learned counsel for the petitioners that the fee received from the students who are prosecuting the science faculty should generate revenue so that the salary and allowances due to the staff working in the unaided posts can be effectively turned out from the revenue so generated. Though the petitioners have been working since long time, either on temporary/contract basis, but at the same time prior to taking over the college, the private managements have been utilizing the services of the petitioners insofar as

the science faculty is concerned. Admittedly, there are about 300 students prosecuting their science subjects. Necessarily, some faculty must be there for teaching students in the science faculty.

As rightly contended by the learned counsel for the petitioners that the institution is an inseparable one which includes both science and arts faculties, there cannot be any discrimination in respect of one faculty and a different treatment in respect of other faculty. Though the Madhu Malancha Degree College is established in the year 1975, the science faculty was introduced in the year 1995; new combination of computers was started in the year 1990 and the Statistics subject was introduced in the year 1997. All the courses in B.Sc. remained unaided since 1985 and remuneration to the staff working the B.Sc. Course were paid on consolidated basis. Insofar as A.B.V. Degree college is concerned, some of the subjects in B.A., B.Com., and B.Sc., courses were introduced in the year 1987-88. The strength of the A.B.V. Degree College, Janagoan, is about 1400 in various subjects and there are about 65 teaching and non-teaching staff working in aided posts, whereas 28 teaching and non-teaching staff are working in unaided posts.

Under Section 61 of the Act, if the Government or special officer appointed under Section 60 of the Act, is of opinion that any contract of employment entered into by the management in relation to the educational institution at any time before taking over is unduly onerous, they may give to the employee one month's notice in writing or salary or wages for one month in lieu thereof, terminate such contract of employment.

The word 'onerous' as per the New Oxford Dictionary of English means involving an amount of effort and difficulty, which is oppressively burdensome. The word 'unduly' means unwarranted or inappropriated or excess or disproportionate. Therefore, when the Government is of the opinion that it would face any amount of difficulty,

which is oppressively burdensome, only then the Government or the special officer, as the case may be, can terminate the contract of employment. If the petitioners are continued in the same position, in which they are existed as on the date of taking over the college, it is not that there would be a burden on the Government exchequer. The Government has not taken into consideration the finances that may be generated by way of collecting fee from the students. Though admitting the posts into grant-in-aid would be unduly onerous because of financial implications, but at the same time, continuing the petitioners in the same position, as existed as on the date of taking over the college, in my considered opinion, would not be burdensome to the Government in view of the fact that the management, till such time, had been utilizing their services in the science faculty by incurring expenditure. In such view of the matter, the classification is not justified, particularly in view of the fact that Section 60 of the Act does not differentiate between taking over the college in respect of certain posts. Therefore, this Court is of the opinion that condition No.5 to the effect that no member in teaching and non-teaching in unaided posts shall be taken over, hits the equality clause under Article 14 of the Constitution of India. Therefore, the said clause is arbitrary and illegal.

It is contended by the learned Government Pleader for Higher Education that there were no sanctioned posts and some of the petitioners were not appointed in terms of the governing rules. As per G.O.Ms.No. 1422 Education (CE1) Department dated 22-10-1987, the Director of Higher Education permitted all the Principals of the Government Degree/Junior colleges and also the Correspondents of all Private Degree and Junior Colleges in the State to make

ad hoc part time arrangements on hourly remuneration at the rate of Rs.20/- in all the vacant posts, leave vacancies and for the extra work load in the subjects concerned during 87-88 till the candidates from Andhra Pradesh College Service Commission are made available, so as to avoid dislocation of teaching work, in the colleges in

the State. However, some of the petitioners were appointed by duly constituted selection committee and some of them were appointed purely on temporary/adhoc basis. Even according to the policy existing then, the Government granted permission to the Correspondents of the private degree and junior colleges to make appointments even in the leave vacancies so as to avoid dislocation of teaching work. In these two colleges, it is not in dispute that considerable number of students are prosecuting their studies in the science subjects. If the petitioners are terminated from service, it will cause dislocation and hardship to the students. Certain Government Orders issued by the Government were brought to the notice of this Court to the effect that some persons working in private colleges were absorbed into grant-in-aid against vacant aided posts in relaxation of selection procedure prescribed in G.O.Ms.No.12 Education, dated 10-01-1992. Some of the persons in some colleges, who were working as *ad hoc* lecturers, were given relaxation of selection procedure. The same principle wfill also equally apply to the present petitioners herein provided that a vacant aided post is available in the college.

When the writ petitions are pending, it is brought to the notice of this Court that the Government directed the Andhra Pradesh State Council of Higher Education to formulate a suitable proposal for evolving a policy with regard to admission of unaided colleges (Degree/Junior) opened before 31-12-1990 i.e., pre-liberalization period and unaided Sections in aided colleges (Degree/Junior) to grant-in-aid and related matters like counting of unaided service for fixation of pay etc. The Review Meeting on Higher Education held on 17-02-2005 for regularization of part time lecturers was discussed. Therefore, the Government constituted a committee with certain members to examine the issue of regularization of services of part time lecturers working in the private aided degree/junior colleges and the committee submitted its report to the Government within two months. Therefore, a policy decision has to be taken in all the colleges in the State to regularize the services of part time lecturers. Even though the Government has taken over the colleges, but at

the same time the petitioners who are admittedly working as a part time lecturers have not been admitted into grant-in-aid.

Therefore, in my considered opinion, the policy decision that may be taken by the Government would also equally apply to the case of the petitioners. Till the policy decision is taken by the Government so as to regularize the services of the part time lecturers in the aided posts, the petitioners shall be continued in the posts, in which they are working, on the same terms and conditions as existed as on the date of taking over the college subject to the availability of vacant posts and subject to the continuation of science faculty in those colleges and also subject to the availability of work.

Accordingly, all the writ petitions are disposed of. In the circumstances, no order as to costs.

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JUSTICE K.C.BHANU

Date: -07-2005.

YCR

To

1 The Director of Collegiate Education., Hyderabad.
2 The Regional Joint Director of Collegiate Education., Warangal.
3. The Secretary, Government of Andhra Pradesh,

Higher Education (CE.II.s) Department, Secretariat, Hyderabad.

4 The Commissioner of Collegiate Educ., Govt of AP., Nampally, Hyd.
5. 2 CCs to G.P. for Higher Education, High Court of A.P. Buildings Hyderabad

(OUT)

6. 2 C.D. copies.